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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
MEINECKE DIAZ, SUSANNA M	
ART UNIT	**PAPER NUMBER**
3623	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/634,723	SACHEDINA, SHER (KARIM)	
	Examiner	Art Unit	
	Susanna M. Diaz	3623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 12 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ they raise the issue of new matter (see Note below);

   (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see attachment*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☒ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1,3-8,11,16 and 21-33*.

   Claim(s) withdrawn from consideration: *2,9,10,12-15,17-20 and 34-40*.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Susanna Diaz

SUSANNA M. DIAZ
PRIMARY EXAMINER
A.U. 3623

Attachment to Advisory Action (dated 10/16/2004)

Applicant's arguments are not persuasive.

Applicant's proposed amendment to claim 22 would not overcome the rejection under 35 U.S.C. 101 because the recited incorporation of a computer readable medium storing data amounts to nothing more than a nominal recitation of technology, which is not a "core" step as indicated in the art rejection. An example of a "core" step in claim 22 is the step of "determining a value of adjusted data as a function of the impact data and the base data."

Applicant argues:

> Groat, *et al.* fails to disclose, teach or suggest a third user interface element characterizing ***an impact value adapted to adjust the base data***, as recited in claim 1, and ***defining impact data having an impact value*** for at least one account of the plurality of accounts, as recited by claim 22. The Examiner asserts that "the mathematical representation of these interdependent relationships among different account values is indicative of at least one impact value." However, this merely discloses that methods are utilized to calculate base data for an account. The subject invention as recited in claim 1 (and similarly by claim 22) includes both an interface element characterizing ***a method component to derive base data*** for at least one account ***and*** an interface for element for characterizing an ***impact value adapted to adjust the base data***. (Page 9 of Applicant's response)

As explained in the previous art rejection, the mathematical representation of these interdependent relationships among different account values is indicative of at least one impact value. For example, as explained in ¶¶ 34-35 of Groat, an individual's bank account deposit amount is based on a formula applied to the individual's monthly income. The bank account deposit amount is equal to the [monthly salary x (1-(Tax

Rate + Retirement Account Rate))]. Monthly salary may be interpreted as an example of base data while tax rate and retirement account rate are examples of quantitative factors (i.e., impact values) that reflect the impact of the individual's tax rate and retirement account rate on the portion of the monthly salary that is ultimately deposited in the individual's bank account. By defining and setting the specific quantities associated with each respective factor, one is effectively "characterizing an impact value" (e.g., tax rate and/or retirement account rate) that adjusts base data (e.g., monthly salary). Applicant's terminology is very broad. Applicant admits that Groat "discloses that methods are utilized to calculate base data for an account." Figure 1 of Groat shows "an iconographic display generated by a numeric analysis engine of the present invention for a household budget." Then, ¶ 48 of Groat explains that the numeric object icons may be active or passive. Active icons can be activated by a user to change the properties of the numeric icons and the objects they represent. These icons may also be accessed through a pull-down menu to allow "a user to see how given events affect numeric objects of the household budget" (¶ 59). Any of the multiple factors affecting the budget exemplifies an impact value to derive the base data, or budget. Also, Groat clearly provides an interface that allows the user to access and revise these multiple factors to observe their effects on the budget. Applicant does not provide any specific explanation as to how their interpretation of "a method component to derive base data for at least one account and an interface for element for characterizing an impact value adapted to adjust the base data" varies from the invention disclosed in Groat.

Applicant asserts that "Groat, *et al.* fails to disclose or teach a ***key result impact value*** corresponding to at least part of the impact value, as recited by claim 11 (and similarly by claims 23-25) and an ***action plan impact value*** for at least one account as recited by claims 21, 26, and 29." (Page 9 of Applicant's response) However, Applicant provides no further support for such an assertion; therefore, Examiner maintains that Groat addresses said features in Fig. 1 and ¶¶ 32-46, 53, 59, 68, 86.

Applicant argues that Groat "fails to disclose or teach ***aligning a plurality of time period***s in the stored account data relative to a starting day, as recited by claim 31." (Page 9 of Applicant's response) The Examiner submits that Groat discloses electronic calendars that display various account-related events on a calendar over an extended period of time (¶¶ 44, 62, 71). All calendars inherently align a plurality of time periods relative to a starting day. For example, calendars are based on understood date conventions, such as the fact that January of one year precedes February of that same year or that October 16, 2004 falls on a Saturday, etc. Groat utilizes calendars in an electronic environment in which account data can be analyzed, thereby addressing the limitation in question. Again, this limitation is very broad in scope and Applicant does not explain how the Examiner has allegedly not addressed this limitation in light of its breadth. A similar analysis applies to Applicant's arguments regarding claim 32.

Applicant broadly challenges the Examiner's use of Official Notice (see page 10 of Applicant's response). Examiner notes the following discussion of Official Notice taken from the MPEP:

> To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's

> action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention."). A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. If applicant adequately traverses the examiner's assertion of official notice, the examiner must provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697 ("[T]he Board [or examiner] must point to some concrete evidence in the record in support of these findings" to satisfy the substantial evidence test). If the examiner is relying on personal knowledge to support the finding of what is known in the art, the examiner must provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Applicant has not "specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." Consequently, the statements of Official Notice made in the art rejection have been established as admitted prior art due to Applicant's failure to properly traverse the Examiner's assertions of Official Notice. Therefore, Applicant has not sufficiently switched back to the Examiner the burden of supplying references in support of her assertions of Official Notice.

Regarding claim 33, Applicant argues that "even if a user plans their retirement one year prior to actually retiring, the claimed limitations are not disclosed or taught. In particular, an ***attribute impact value*** is not determined from ***a corresponding event in at least one other year of data.*** Moreover, an attribute impact value would not be available until the event occurs at least once." (Pages 11-12 of Applicant's response) The Examiner respectfully disagrees. As explained above, any factors affecting an account, e.g., a budget, are impact values (or attribute impact values). Furthermore, Groat's invention simulates an anticipated effect (e.g., a hypothetical financial status -- see at least ¶¶ 7, 8 of Groat) of changes in the factors on a budget in order to assist in financial planning. Therefore, one would not actually need to retire before planning for retirement. This concept was further reiterated by Examiner's statement, "Official Notice is taken that it is old and well-known in the art of retirement planning that many people who take it upon themselves to implement a retirement plan do so at least one year prior to actually retiring. This practice helps to ensure that one will have sufficient income on which to survive after retirement." Consequently, the Examiner maintains the validity of the art rejection set forth regarding claim 33.

In conclusion, Applicant's arguments are not persuasive.

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